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Transnational Socioeconomic Justice and the Right of Resistance

The cosmopolitan literature on transnational socioeconomic justice has developed unevenly. More often than not its focus has been on how the affluent can satisfy their duties to the impoverished. What has largely been neglected is the role that the impoverished can play in ensuring that the duties owed to them are satisfied. This, however, does not sit well with the liberal tradition that informs cosmopolitanism, where the right to resist tyranny, even with violence, has featured prominently. This paper aims to recover the debate surrounding the right of resistance within the context of the current controversy over transnational socioeconomic justice. To do so it will examine the work of Thomas Pogge, as he is one of the most influential institutional cosmopolitans. It will begin by briefly examining two theses in Pogge's work: the first is the argument that the current network of transnational socioeconomic institutions violate the human rights of millions of the world's poorest people; the second is the recent claim that under certain circumstances harming innocent persons can be justified. It will then be argued that if one holds these two theses to be true then, as a matter of logical inference, one is committed to a third: that resistance to the international system and its institutions, even when it harms innocent people, is justifiable.

§ Thesis One

The first thesis claims that the transnational institutional system foreseeably and avoidably produces severe poverty.ⁱ Consequently, individuals who cooperate with this system are complicit in the violation of the human rights of millions of people by failing to satisfy their negative duty not to impose

an institutional order that denies individuals their human rights. The failure to satisfy this negative duty creates positive obligations to reform these institutions and compensate their victims.(Pogge, 2008, p. 26)

The type of human rights violation characterised above is systemic rather than “interactional.” These violations are not the consequences of individual actions but of the design of social institutions. This distinction is important because of how it assigns responsibility. Under the institutional understanding, human rights responsibilities are assigned to social institutions. Individual persons only have indirect and shared responsibility for the justice of the institutional system with which one cooperates.(Pogge, 2008, p. 176) Thus one does not need to be personally engaged in violating human rights to bear responsibility; all that is required is that one cooperates with institutions that perpetuate systemic injustices.

Additionally, the magnitude of this failure should be examined. Given that it constitutes a violation of human rights it is obviously non-trivial. However, in his most recent book Pogge has made explicit comparisons between the international system and the Holocaust. Those officials in charge of setting and revising the United Nation’s Millennium Development Goals are compared with the Nazi officials at the Wannsee Conference who systemically planned the extermination of Europe’s Jews. Presumably it can then be inferred that the individuals who cooperate with the international system are comparable to those Germans who cooperated with Hitler’s tyranny, either passively or actively. It is not a perfect comparison given that the architects and supporters of the international system do not possess the malevolent intent of orchestrators of

the Holocaust. Yet, while intention does help to deflect some responsibility, it provides little comfort to the millions suffering and dying needlessly. (Pogge, 2010, pp. 1-4) The scale of harm facilitated by the international system greatly overshadows the Holocaust in terms of lives lost; indeed it overshadows the death caused by the Second World War as a whole. (Pogge, 2007, p. 30) As such, the international system, insofar as it allows these foreseeable and avoidable deaths to continue, perpetuates perhaps the greatest violation of human rights in history.

This thesis on global poverty is controversial and has been subjected to criticism from many quarters.ⁱⁱ However, it is beyond the scope of this paper to assess its validity and it will be assumed to be true. This is acceptable given that the purpose of this paper is to examine the consequences of affirming the theses set out in the first two sections. Thus the aim of this section is modest. It has merely set out the basic structure of Pogge's argument: the international system violates the basic human rights of millions by preventing them from having the objects of their rights. At least some responsibility falls on individuals who cooperate with the social institutions that violate human rights. These violations are far from trivial. Therefore, individuals who uncritically cooperate with the international system bear similar responsibility as those Germans who passively or actively cooperated with the Nazi regime.

§ Thesis Two

The second thesis claims that violence against innocent persons can be justified when certain conditions are met. The uncontroversial starting point is that causing harm to innocent persons is presumptively wrong. Here innocence

is defined by two characteristics: the persons have done nothing to justify being harmed and they pose no threat to those carrying out an attack. However, harming innocents is only presumptively wrong; in certain situations this presumption can be overridden. There are two paths available to do this. The first involves *ex-ante* reasons, where the individuals harmed stood to gain. Such is the case when vaccinating someone against a pervasive illness even though there is a slim chance that they might be seriously harmed or even die from an allergic reaction. However, those harmed by acts of terror and war cannot be said to stand to benefit from such actions and this line of argument can be dismissed. (Pogge, 2010, p. 142)

The second path is a consequentialist appeal to the “greater good” that rests on four conditions being satisfied. The first is that the greater good that is being appealed to is indeed a good. Second, that the act would, at least probabilistically, contribute to obtaining this good, Third, the good being appealed to sufficiently outweighs the harm caused to innocent persons. Finally, the act is necessary for the good to be achieved. (Pogge, 2010, pp. 142-143)

These conditions are used to show that recent Islamist terror attacks, such as the ones of September 11, 2001, were unjustified. The goods appealed to by those carrying out these attacks were discouraging Western intervention in the Muslim world, weakening support for Israel, and punishing the West for past transgressions.(Pogge, 2010, p. 143) All of these goods are controversial and objectionable on the grounds that they do not meet the first and third conditions. Secondly, it is not evident that these attacks could have reasonably contributed to the aforementioned goods, given that these attacks rather predictably

increased Western intervention in the Muslim world and sympathy for Israel; thus being objectionable on the second condition. Finally, these attacks egregiously harmed more innocent persons than were necessary to achieve their aims. The September 11, 2001 attacks, for example, could have occurred on a Sunday morning minimising the harm to innocent persons. Therefore, the fourth condition is not met. (Pogge, 2010, pp. 141-147) As such, the Islamist terror attacks that have occurred over the past decade were unjustified, but this is not to claim that all actions that harm innocent persons are unjustifiable.

§ Thesis Three

The preceding sections have been descriptive. They have provided an overview of two theses of Thomas Pogge regarding the causes of global poverty and when it is justifiable to harm innocent persons. This section will change the tenor of the paper by asking whether holding these two theses to be true commits one to holding a third thesis: that it is legitimate to resist a global system that violates basic human rights, even if these acts of resistance harm the innocent.

The first question that needs to be answered is whether individuals who cooperate with the international system can be considered innocent. It is evident that Pogge considers those who cooperate with the international system, even through passive acquiescence, as being indirectly responsible for the human rights violations caused by it. So the question must be does responsibility negate Pogge's understanding of innocence? Pogge's first criterion for innocence is that the persons in question pose no threat to those who would carry out the attacks. In an immediate sense this is obtainable. The majority of people who are

empowered by and cooperate with the international system do not actively seek to cause grievous harm. They do not, generally, participate in interactional harms in the same way as a torturer or murderer. Yet, the systemic understanding of the rights violation allows for an interpretation that those who cooperate with the international system do pose a threat to the world's poor by cooperating with the system that finances tyrants, penalises emerging democracies, and encourages their overthrow. In an indirect way, the citizens of powerful states pose a real threat to the fundamental rights of many people.

This also helps to answer the second criterion; that innocent persons have done nothing to justify acts of violence against them. It is possible to conceive that the distribution of power in the international system could be asymmetrical thus making the powerful a threat to the weak, but ultimately if this power is not used then it would fail to meet this second condition. However, the central claim of the first thesis is that the international system does in fact harm millions of people. Consequently, those who cooperate with the international system cannot readily be considered innocent.

One might dispute Pogge's criterion of innocence and ask if merely cooperating with the international system in the way that an ordinary citizen does is enough to make them responsible for harm caused by this system. A person could, for example, be forced to cooperate at gunpoint with a gang of thugs in some harmful criminal enterprise, but it would be unreasonable to say that this person is therefore responsible for the harm caused by the crime. Is the average citizen of a developed state a similarly coerced but unwilling accomplice? There are two replies that could be tentatively offered to this

argument. The first is that of democratic responsibility. The majority of the world's affluent citizens live in states that have democratic constitutions. The fact that these states are controlled by their citizenry and speak in the name of these citizens is enough to extend responsibility for the transnational institutions supported by their states. The band of criminals, presumably, do not ask for the consent of their cat's paw, nor do they act in the name of the coerced. Thus when democratic states foreseeably and avoidably create transnational social institutions that harm millions the responsibility must also fall on all citizens, not just the powerful and influential.

The second response is to look at who benefits from the harmful act. The coerced accomplice does not stand to gain from the criminal enterprise (apart from not suffering the harm threatened by non-compliance). The citizens of those states that shape the transnational system do appear to profit through the availability of cheap products manufactured in developing countries, through the jobs created by the extraction of cheap minerals, by permitting powerful states to subsidise farmers and so on. In benefitting from the fruits of exploitation and authorising their states to support a transnational system that foreseeably and avoidably causes harm the average citizen possesses dirty hands. Yet, even if we were to accept that the average citizen of a developed state is innocent, the overall argument pursued in this section is not compromised. If they are not responsible for the transnational system it only makes the question of whether it is acceptable to harm the innocent more pressing.

Setting aside the question of whether the average citizen is responsible for the violation of human rights caused by transnational social institutions,

there is a less contentious way to identify innocent persons. All that is required for a person to trivially satisfy their negative duty to not cooperate with an unjust transnational system is to abstain from this system, as would be the case of a hermit. In the non-trivial way innocence requires that when one is enmeshed within an unjust system he or she dedicate reasonable effort towards reforming the system and compensating its victims. (Pogge, 2007, pp. 25-26) Moreover, there may be persons who could be intrinsically free from responsibility for the system from which they have benefitted, children being the most prominent example. It is, therefore, possible to conceive that there are people who could meet Pogge's understanding of innocence that could be harmed by acts of resistance.

Thus the question now turns on whether acts of violence against the international system can satisfy the four criteria listed in the second thesis. The first condition is that the good being contributed to actually be a good. This is the least controversial condition since, under Pogge's framework, human rights have a correlated negative duty not to impose a system of institutions that deny persons the objects of these rights.

The second condition that the action will at least probabilistically contribute to the realisation of the good is more complicated and Pogge does not provide detail into what he means by this. In his test case he claims that the September 11, 2001 terrorist attacks were unjustifiable, in part, because they were counterproductive. This condition hinges on how probability is understood and what is a sufficient level of probability to merit a particular act. In certain circumstances a relatively low probability of success could still merit some forms

of violent resistance. The history of slave rebellion provides a way to illuminate this; the Helot rebellions against the Spartans, the Servile Wars in the Roman Republic, and the various slave revolts in the Americas had relatively little chance of succeeding and when they failed the consequences were often dire for the participants. However, there is a plausible argument that when the wrong being endured is sufficiently severe then a low probability of success suffices to justify resistance. In the cases of rebellions against slavery it is intuitively plausible that resistance is justifiable even if the odds of success are relatively low. It would similarly be difficult to criticise resistance against a genocidal regime or even an intransigent imperial occupation, even if success was only a distant hope.

It might be objected that the comparison to slavery is inaccurate given that slaves had identifiable targets such as their masters, whereas the transnational system is more diffuse. However, this mistakes slavery as being a merely personal relationship between master and slave, rather than a social institution supported by the cooperation of a multitude of individuals who may not own slaves. The slaves may have had some clearer sense of who was immediately responsible for their oppression, but this does not invalidate the comparison of systemically oppressed groups. In the case of the international system, if thesis one is accepted, then the situation of the world's poor is comparable to that of slaves and appears to legitimatise resistance, however slight the probability of producing an effective outcome.

The third condition, that the good achieved by an act outweigh the harm caused by the act, is easier to meet. The claim of thesis one is that the

international system, as it currently stands, contributes to the premature deaths of some 50,000 people per day or, in more vivid terms, the death toll of September 11, 2001 is repeated once every hour and a half. Thus if we are to weigh harming the innocent against benefit to the global poor, we should also consider that the status quo is not neutral but harms a multitude of innocent people. This is a devastating moral tragedy. If an act of resistance, though it grievously harms innocent persons, could potentially help change the structure of the international system then it seems very difficult to argue that it is not justified on the basis of comparing harms.

The final condition, that the act be necessary to achieve the goal, is perhaps the most difficult to meet. As mentioned previously, Pogge condemns the destruction of the World Trade Centre because of the unnecessary harm done to innocent persons. The claim that the wanton taking of innocent life is wrong is indisputable, but it does not equate to a blanket prohibition on acts of violence. It perhaps only requires that those employing such methods take due diligence in ensuring that the number of innocent persons harmed is minimised, such as by issuing bomb threats as was the custom of the IRA. (Pogge, 2010, pp. 141-142) This raises difficult questions regarding necessity and whether violence ever is necessary. A strict condition of necessity, literally meaning a condition without which an object could not be achieved provides an *ex post* way of judging actions. It could be said that the violence done to innocent persons in the American Revolution was justified since it was necessary to produce an independent republic, but that the Revolutions of 1848 in Europe were unnecessary because they didn't achieve their ends and prompted conservative

reaction. However, we should be careful not to conflate necessity and sufficiency. It may be that an act of violent resistance as in 1848 was necessary to achieve the ends of a Europe of democratic nation states, but that it was insufficient to achieve that end alone.

In the case of transnational justice there seems to be a strong argument for the necessity of violence. The depth of the problem of global poverty has been repeatedly emphasised in this paper this can be complimented by examining its intransigence. The problem of severe global poverty has been a subject of academic debate for almost four decades. Yet, according to Pogge, little practical progress has been made. Indeed, one of his central claims is that progress has stalled and commitments to the global poor, such as the Millennium Development Goals, have been revised into meaninglessness. (Pogge, 2010, pp. 57-75) Given the unwillingness of the citizens of the developed world and their representative states to reform the international system and the cost of this system to millions of people, it seems plausible to claim that violent resistance, even when it harms innocent people, is necessary (though perhaps insufficient) to achieve this aim.

It can be concluded, at least according to the criterion of thesis two, that it is not necessarily wrong to harm innocent persons to rectify the injustice of the current international system, as described in thesis one. Setting aside the question of innocence, the four conditions listed in thesis two all appear to be met. The good of a just international system is uncontroversial. The probability of such acts contributing to this good is acceptable even if it is low. The harm caused by the international system to innocent persons outweighs all but the

most atrocious actions against innocent persons. Finally, regarding the necessity of such actions, one can only point out that despite the energetic work of many people and a widespread awareness of the disparity between the world's wealthiest and the world's poorest there has been little change in the status of the latter. As such, it seems plausible to argue that, where peaceful politics has failed so badly, recourse to extreme measures is justifiable.

§ Harming Innocents and the Right of Resistance

If the above argument is correct and there is a right to resist unjust transnational institutions this raises many questions about the implication of this right. The connection between acts of resistance and violence has been stressed, but it is not evident that the right of resistance needs to be exercised violently. However, it is necessary not to equate non-violence with non-harm. It is perfectly conceivable that a non-violent action such as a general strike could seriously harm innocent persons by, for example, preventing the delivery of vital medicine or causing businesses to collapse, immiserating those dependent upon it for work. Alternatively, a violent act may harm no innocent person such as the act of tyrannicide, though the diffuse nature of transnational social institutions does not provide an obvious equivalent to the classic tyrant.

The aim of resistance is also of interest. One could point to revolutionary movements such as the Zapatista Army of National Liberation as an example of a secessionist movement from the current transnational system in their attempts to form a local socialist economy on the basis of a right of resistance. Yet, a right to resistance does not necessarily equate with a return to parochialism but might aim for a more egalitarian arrangement of transnational institutions.

Finally, we may ask about the role of third parties. It is plausible that those who suffer the most harm from the transnational system are unable to resist. Does this mean that there is a duty to intervene on their behalf that could be executed by those who do not suffer the negative effects of the transnational system? On one hand this may be appealing considering that sympathetic persons in the developed world might be able to exert more influence by acting out of solidarity, but it also might invite the type of unhelpful adventurism that informed the Baader-Meinhof Group. These questions cannot be definitively answered here, but they bring to light the debate that needs to occur if it is plausible that there is a cosmopolitan right to resistance.

§ Conclusion

The purpose of this paper is not to endorse political violence in the cause of transnational socioeconomic justice. It has simply argued that if one holds the first two theses to be true then one must also endorse a third. It is possible that by revising or abandoning either of the first two theses one need not hold the third. Nevertheless, if the international institutional system produces massive systemic harm to millions of people and if it is legitimate for individuals to resist social institutions that inflict a “long train of abuses” upon them, then it is necessary to take a cosmopolitan right to resistance seriously. Given the intransigence of the international system to reform in the face of an unspeakable human tragedy, it is time to ask whether the right to resistance that was once located within the state has a cosmopolitan scope and what the implications of this right are both in theory and in practice.

ⁱ The current international system fails to provide access to the objects of human rights for historical and ongoing reasons. The first case illuminates the historical complicity of the international system with imperialism, colonisation, and so on. However, even without these historic wrongs, the current international system supports ongoing violations of human rights. Pogge identifies two “privileges” that the international system grants to the leaders of states that contribute to depriving people of the objects of their human rights. They are given power to effect legally valid transfers of ownership over the resources within their state and they are given the power to borrow money from international institutions. The resource privilege and the borrowing privilege constitute violations of the human right to basic necessities because they provide legal means for tyrants to consolidate their power, in cases where authoritarian governments are overthrown the new governments are saddled with debts and obligations that often unmanageable, and finally access to these powers provides a strong incentive for powerful cliques to overthrow democratic governments.

(Pogge, 2008, p. esp. ch.4, 2010, p. esp. ch.2)

ⁱⁱ Cosmopolitans, such as Simon Caney, have taken exception to Pogge’s thesis by claiming that the existence of international institutions is not morally relevant. The worry expressed is that individuals who are outside of the transnational system could be left in circumstances of extreme poverty with no recourse to justice. (Caney, 2005, pp. 104-116) Non-cosmopolitan critics, such as Mathias Risse, have disputed the empirical claim that transnational institutions harm the global poor. Instead they claim that these systems have had a positive effect on the conditions of the global poor. (Risse, 2005) Others have argued that duties of justice do not obtain at the global level for various reasons. Christian Barry and Laura Valentini have provided an excellent overview of liberal egalitarian critiques of cosmopolitanism. (Barry & Valentini, 2009)

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